

# Exhibit C

**In The Matter Of:**

*City of Detroit*

---

*Kenneth Buckfire*

*August 29, 2013*

---



**Bingham Farms/Southfield • Grand Rapids**

Ann Arbor • Detroit • Flint • Jackson • Lansing • Mt. Clemens • Saginaw

*Original File BUCKFIRE\_KENNETH.txt*

*Min-U-Script® with Word Index*

City of Detroit

Page 1

1 UNITED STATES BANKRUPTCY COURT  
2 FOR THE EASTERN DISTRICT OF MICHIGAN  
3 SOUTHERN DIVISION  
4  
5 In Re:  
6  
7 CITY OF DETROIT, MICHIGAN Chapter 9  
8 Case No.13-53846  
9 Debtor. Hon. Steven Rhodes  
10 /  
11  
12  
13 The Video Deposition of KENNETH BUCKFIRE,  
14 Taken at 1114 Washington Boulevard,  
15 Detroit, Michigan,  
16 Commencing at 9:31 a.m.,  
17 Thursday, August 29, 2013,  
18 Before Nora Morrissy, RMR, CRR, CSR-2642.  
19  
20  
21  
22  
23  
24  
25

Page 3

1 JENNIFER GREEN  
2 FRANK GUADAGNINO  
3 Clark Hill, P.L.C.  
4 500 Woodward Avenue, Suite 3500  
5 Detroit, Michigan 48226-3435  
6 313.965.8300  
7 Appearing on behalf of Police and Fire Retirement  
8 System and Police and Fire General Retirement System.  
9  
10 KELLY DIBLASI  
11 Weil, Gotshal & Manges, LLP  
12 767 Fifth Avenue  
13 New York, New York 10153  
14 212.310.8032  
15 Appearing on behalf of Financial Guaranty Insurance  
16 Company.  
17  
18 ERNEST J. ESSAD, JR.  
19 Williams, Williams, Rattner & Plunkett, P.C.  
20 380 North Old Woodward, Suite 300  
21 Birmingham, Michigan 48009  
22 248.642.0333  
23 Appearing on behalf of Financial Guaranty Insurance  
24 Company.  
25

Page 2

1 APPEARANCES:  
2  
3 THOMAS CULLEN, JR.  
4 BENJAMIN ROSENBLUM  
5 Jones Day  
6 51 Louisiana Avenue N.W.  
7 Washington, D.C. 20001  
8 202.879.3939  
9 Appearing on behalf of the City of Detroit.  
10  
11 MATTHEW G. SUMMERS  
12 Ballard Spahr, LLP  
13 919 North Market Street, 11th floor  
14 Wilmington, Delaware 19801  
15 302.252.4465  
16 Appearing on behalf of EEPK.  
17  
18 STEPHEN HACKNEY  
19 LALLY GARTEL  
20 Kirkland & Ellis, LLP  
21 300 North LaSalle  
22 Chicago, Illinois 60654  
23 312.862.2157  
24 Appearing on behalf of Syncora.  
25

Page 4

1 KAREN NEWBURY  
2 Schiff Hardin, LLP  
3 233 South Wacker Drive, Suite 6600  
4 Chicago, Illinois 60606  
5 312.258.5522  
6 Appearing on behalf of Depfa Bank, PLC, as agent for  
7 DFS WertManagement.  
8  
9 CAROLINE TURNER ENGLISH  
10 Arent Fox, LLP  
11 1717 K Street, NW  
12 Washington, D.C. 20036  
13 202.857.6000  
14 Appearing on behalf of Ambac.  
15  
16 BIANCA FORDE  
17 Winston & Strawn, LLP  
18 200 Park Avenue  
19 New York, New York 10166  
20 212.294.4733  
21 Appearing on behalf of Assured Municipal Guaranty  
22 Corp.  
23  
24  
25

1 JASON JURGENS  
2 Cadwalader, Wickersham & Taft, LLP  
3 One World Financial Center  
4 New York, New York 10281  
5 212.504.6102  
6 Appearing on behalf of Merrill Lynch Capital Services.  
7  
8  
9 GUY S. NEAL  
10 Sidley Austin, LLP  
11 1501 K. Street, N.W.  
12 Washington, D.C. 20005  
13 202.736.8041  
14 Appearing on behalf of National Public Finance  
15 Guarantee Corp.  
16  
17 STEVEN WILAMOWSKY  
18 Bingham McCutchen, LLP  
19 399 Park Avenue  
20 New York, New York 10022  
21 212.705.7960  
22 Appearing on behalf of UBS.  
23  
24 **ALSO PRESENT:**  
25 Bailey Wellman, Video Technician

1 DEPOSITION EXHIBIT 1 8  
2 DEPOSITION EXHIBIT 2 21  
3 DEPOSITION EXHIBIT 3 43  
4 DEPOSITION EXHIBIT 4 80  
5 DEPOSITION EXHIBIT 5 170  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1 TABLE OF CONTENTS  
2  
3 Witness Page  
4 KENNETH BUCKFIRE  
5  
6 **EXAMINATION**  
7 **BY MR. SUMMERS:** 8  
8 **EXAMINATION**  
9 **BY MR. HACKNEY:** 108  
10 **EXAMINATION**  
11 **BY MS. DIBLASI:** 165  
12 **EXAMINATION**  
13 **BY MS. ENGLISH:** 171  
14 **EXAMINATION**  
15 **BY MS. FORDE:** 189  
16 **EXAMINATION**  
17 **BY MS. GREEN:** 202  
18 **EXAMINATION**  
19 **BY MS. NEWBURY:** 204  
20  
21 EXHIBITS  
22  
23 Exhibit Page  
24 (Exhibits retained by counsel.)  
25

1 Detroit, Michigan  
2 Thursday, August 29, 2013  
3 9:31 a.m.  
4  
5 **MARKED FOR IDENTIFICATION:**  
6 DEPOSITION EXHIBIT 1  
7 9:21 a.m.  
8 **VIDEO TECHNICIAN:** We are now on the  
9 record. This is the videotaped deposition of Kenneth  
10 Buckfire being taken on Thursday, August 29th, 2013.  
11 The time is now 9:31 a.m. We are located at 1114  
12 Washington Boulevard, Detroit, Michigan.  
13 We are here in the matter of In Re: City of  
14 Detroit, Michigan case number 13-53846 in the United  
15 States Bankruptcy Court, Eastern District of Michigan.  
16 My name is Bailey Wellman, video  
17 technician. Will the court reporter please swear in  
18 the witness.  
19 KENNETH BUCKFIRE,  
20 was thereupon called as a witness herein, and after  
21 having first been duly sworn to testify to the truth,  
22 the whole truth and nothing but the truth, was  
23 examined and testified as follows:  
24 **MR. SUMMERS:** Good morning.  
25 **EXAMINATION**

Page 9

1 **BY MR. SUMMERS:**

2 Q. Mr. Buckfire, would you please state your name and  
3 business address for the record?

4 **A. Kenneth Buckfire. 601 Lexington Avenue, New York, New  
5 York.**

6 Q. For the record my name is Matthew Summers. I'm an  
7 attorney at Ballard Spahr in Wilmington, Delaware and  
8 we represent the entity that's caused people a little  
9 trouble with the name but we've been referring to it  
10 as EEPK.

11 Mr. Buckfire, you understand the way a  
12 deposition process works, correct?

13 **A. I believe so.**

14 Q. And you've been deposed on numerous occasions  
15 previously, correct?

16 **A. Yes.**

17 Q. Because of that experience I just provide a few basic  
18 ground rules that I will ask you to abide by today.  
19 First if the question that I ask is not clear, please  
20 let me know and I will attempt to rephrase it and if I  
21 ask a question and you don't understand it but answer  
22 it anyway, I would ask you not to do that but to ask  
23 me to clarify and if you give me an answer, I will  
24 assume you understood the question.

25 Second, because we are on the record and

Page 11

1 **City. Prepared to testify to the general condition of  
2 the City's financials leading up to the execution of  
3 the forbearance agreement.**

4 Q. Are there any other topics that you intend to testify  
5 at the hearing concerning the forbearance agreement?

6 **A. I'll testify at that point to the status of the DIP  
7 form process that will provide the financing to  
8 execute the City's option under the forbearance  
9 agreement to retire the Swaps.**

10 Q. Are there any other topics that you have not mentioned  
11 in your answers that you intend to testify about?

12 **A. I'm sure there will be other things but I can't recall  
13 at this time what they might be.**

14 Q. Mr. Buckfire, what is your position with Miller  
15 Buckfire?

16 **A. Co-founder and co-president of Miller  
17 Buckfire & Company.**

18 Q. Miller Buckfire currently is employed as the financial  
19 advisor to the City of Detroit, correct?

20 **A. As the investment banker to the City, that's correct.**

21 Q. And when was Miller Buckfire first engaged by the City  
22 as investment banker?

23 **A. We were first engaged in July of 2012 for a 60-day  
24 review of the City's financial condition. We were  
25 re-engaged on January 8th of this year to continue to**

Page 10

1 sometimes you will anticipate probably where I'm going  
2 with the question or think that you anticipate, I  
3 would ask that you to make the transcript clearer, I  
4 will ask that you wait until I complete the question  
5 before you begin your answer.

6 **A. Thank you.**

7 Q. Before you is what's been premarked as Deposition  
8 Exhibit 1, and I assume you have seen this document  
9 before, is that correct?

10 **A. No.**

11 Q. No. Okay. And it is the notice of deposition that  
12 was issued that we are proceeding under today. I'd  
13 like to discuss initially with you the topics about  
14 which you plan to testify at the hearing on the motion  
15 to assume the forbearance and optional termination  
16 agreement and prove the settlement therein.

17 Do you have in mind the topics that you  
18 intend to testify at the hearing?

19 **A. Yes.**

20 Q. And can you provide those to me?

21 **A. The reason and purpose of the negotiation with the  
22 Swap counterparties and the results thereof as  
23 determined in the forbearance agreement itself, the  
24 financial condition of the City that led us to believe  
25 that this agreement was necessary to rehabilitate the**

Page 12

1 **advise the City on its financial condition and  
2 financial alternatives. Both were -- were hired  
3 pursuant to an RFP process to which we submitted a  
4 proposal.**

5 Q. When you were hired in July 2012, can you describe the  
6 scope of services that Miller Buckfire was engaged to  
7 provide?

8 **A. As I mentioned earlier, we were engaged to do a  
9 general financial review of the City's financial  
10 condition particularly with respect to its ability to  
11 service its debt obligations.**

12 Q. Were there specific tasks that you were asked to  
13 perform in connection with doing a general financial  
14 review of the debt obligations?

15 **A. No, we were engaged to do a general financial review  
16 and advise the mayor and the chief financial officer  
17 as to what those financial conditions implied for the  
18 City's ability to operate in the ordinary course.**

19 Q. That engagement began in July 2012 is what you  
20 testified to, is that correct?

21 **A. Correct, and ended on August 31st.**

22 Q. Very good. I would point out that I would ask you to  
23 wait until I ask the question, though.

24 Miller Buckfire was then re-engaged on  
25 January 8th of 2013, is that correct?

1 Q. So, for example, the City does not actually project  
2 paying pension -- making pension contributions for  
3 fiscal year 2014, isn't that true?  
4 **MR. CULLEN:** Objection. Foundation. Form.  
5 **BY MR. SUMMERS:**  
6 Q. You may answer.  
7 **A. That's correct.**  
8 Q. And the City does not currently plan to pay the health  
9 benefits for retirees in fiscal year 2014, correct?  
10 **MR. CULLEN:** Objection. Foundation. Form.  
11 **BY MR. SUMMERS:**  
12 Q. You may answer.  
13 **A. Can you repeat the question, please?**  
14 Q. The City does not currently intend to pay the line  
15 item for health benefits for retirees in fiscal year  
16 2014?  
17 **A. That's correct.**  
18 Q. And the City does I guess intend to continue paying  
19 the monthly payment to the Swaps, is that correct,  
20 which is represented by the 50.6 million?  
21 **A. Yes, but again you have to look at the caption of this**  
22 **page. This is not the City's plan.**  
23 Q. This is the City's projection, however?  
24 **A. This is the City's projection in the absence of the**  
25 **reinvestment plan that the City manager has already**

1 **said he is going to put in place and is putting in**  
2 **place.**  
3 **So, this is interesting but not relevant to**  
4 **this discussion because it does not include as the**  
5 **caption indicates clearly at the top the increased in**  
6 **expenditures necessary to restore services to adequate**  
7 **levels for the residents.**  
8 Q. But if you look at this -- and the revenues for fiscal  
9 year 2014 include 170 million in wage earning  
10 revenues, is that correct?  
11 **A. Yes.**  
12 Q. So, if the City is operating, understanding your  
13 qualification, but if the City is under this  
14 projection showing a 397.2 million dollar surplus, if  
15 it did not have access to the casino revenues during  
16 fiscal year 2014, there still would be a surplus, is  
17 that correct?  
18 **A. But it's not the City's plan. This is academic.**  
19 Q. Whether it's academic or not, that's what this  
20 indicates, is that correct?  
21 **MR. CULLEN:** Objection. Foundation. Form.  
22 **A. Yes.**  
23 **MR. CULLEN:** And asked and answered.  
24 **BY MR. SUMMERS:**  
25 Q. And in fact if the City pays the termination fee, it's

1 no longer going to be paying the Swaps' monthly  
2 payment, correct?  
3 **A. Yes, but this is not the City's plan.**  
4 Q. If the City did not have access to casino revenues  
5 from now until December 2013, does the City believe  
6 there will be any point where it would run out of  
7 cash?  
8 **A. You have to look at Page 8. It answers that question.**  
9 **On Page 8 which is clearly presented to the creditors**  
10 **on June the 8th -- June 14th rather, and also on Page**  
11 **9 which forecasts out to June of '14 we clearly show**  
12 **on a monthly basis what we believe the City's cash**  
13 **position to be in the absence of any transaction and**  
14 **you can see that business as usual results in the City**  
15 **having 14 million of cash by the end of June of '13 in**  
16 **the absence of any intermediary action and that that**  
17 **number would not incorporate any cash being spent on**  
18 **the reinvestment program because it hasn't started**  
19 **yet. This indicates quite clearly the dire position**  
20 **the City would be in if we lost access to the 170**  
21 **million of gaming revenue because that would**  
22 **immediately translate into a net cash loss of 160**  
23 **million on this page alone.**  
24 Q. This cash flow page on Page 8 indicates or assumes the  
25 City will be making certain legacy payments that it is

1 in fact not currently making, is that correct?  
2 **A. Yes, it does.**  
3 Q. For example, it assumes that the City will make  
4 pension contributions, correct?  
5 **A. No, I think we are assuming here we continue to defer**  
6 **those pension contributions and that's why if you look**  
7 **at the bottom and you see accumulated deferrals, you**  
8 **see the number grows every month, that's the pension**  
9 **contribution we weren't making.**  
10 Q. If you look at -- this assumes that the City will  
11 continue to payments on general obligation bonds?  
12 **A. That's right. This is the status quo. In the absence**  
13 **of any restructuring or preservation of cash plan or**  
14 **reinvestment of the City, this will be the financial**  
15 **condition of the City in the absence of any action.**  
16 Q. Right. But as a result in part of filing the Chapter  
17 9 bankruptcy proceeding, there are significant legacy  
18 obligations that are not being paid?  
19 **A. This clearly shows if you look at the far right column**  
20 **June of '13 that trying to operate a City of this**  
21 **scale with 14 million of cash bearing in mind that**  
22 **that could be zero or negative on any given day**  
23 **depending on collections made it almost impossible to**  
24 **prudently operate the City and that was the proximate**  
25 **reason why it became necessary to defer the payment on**

1 A. I would recommend it.  
2 BY MR. SUMMERS:  
3 Q. Okay.  
4 MR. SUMMERS: Let's mark that for follow-up  
5 after the deposition.  
6 BY MR. SUMMERS:  
7 Q. You testified that as of the last analysis your  
8 understanding is the estimated amount of the  
9 termination payment that would be due is roughly three  
10 hundred million dollars, is that correct?  
11 A. Well, it clearly moves around as the interest rate  
12 curve moves around. I think the most recent number is  
13 somewhere reaching 275 and 300 million dollars.  
14 That's before the application of the applicable  
15 discount that we had provided for in the termination  
16 agreement.  
17 Q. And that last analysis, when was that performed?  
18 A. A few days ago.  
19 Q. How does the City plan to get the cash necessary to  
20 make the termination payment?  
21 MR. CULLEN: Objection. Foundation. Form.  
22 BY MR. SUMMERS:  
23 Q. Does the City have a plan at this point for how it  
24 will obtain the cash necessary to pay the termination  
25 payment?

1 MR. CULLEN: Objection, foundation, form,  
2 but you can address the question.  
3 A. Yes, the City has a plan.  
4 BY MR. SUMMERS:  
5 Q. And what is that plan?  
6 A. The City intends to secure a debtor in possession  
7 financing of sufficient proceeds to fund the  
8 termination payment as well as provide sufficient cash  
9 for the City to execute on its reinvestment program  
10 during the bankruptcy.  
11 Q. And what is -- what actions, if any, has the City  
12 taken toward obtaining debtor in possession financing?  
13 A. We have contacted a large universe of potentially  
14 interested investors, many of whom have signed  
15 nondisclosure agreements, NDAs, pursuant to which they  
16 have received the request for proposal, the RFP which  
17 went out yesterday.  
18 Q. And is Miller Buckfire leading the effort to obtain  
19 debtor in possession financing?  
20 A. Yes.  
21 Q. And when you say a large universe of potential  
22 investors, do you know approximately how many have  
23 been talked to?  
24 A. At the moment it's in excess of 30.  
25 Q. And how many have -- how many have signed

1 nondisclosure agreements?  
2 A. That's the universe I'm discussing, approximately 30  
3 or more.  
4 Q. So, everybody you've talked to signed?  
5 A. No, some people didn't want to participate. I can't  
6 tell you how many we called. I can tell you how many  
7 we sent NDAs to which have been returned to us, it's  
8 in excess of 30.  
9 Q. Are some of the people or some of the potential  
10 sources of financing that Miller Buckfire have spoken  
11 to said no, we're not interested?  
12 A. Yes.  
13 Q. And approximately how many have said no?  
14 A. Hasn't been that many, maybe ten. Would your client  
15 like one?  
16 Q. And do you know who those ten entities are that have  
17 said they are not interested?  
18 A. I do, yes.  
19 Q. And who are they?  
20 A. I'm not going to tell you that.  
21 Q. On what basis?  
22 A. It's commercially sensitive information.  
23 MR. CULLEN: Counsel, maybe it will help,  
24 and I don't know whether you want this on the record  
25 or not, but the position we are going to take with

1 respect to this is that this is a competitive process  
2 and the best result in that process is achieved by us  
3 being able to negotiate with the individual parties  
4 who are out there, and not to litigate the negotiating  
5 strategy before we have something to bring back to the  
6 court to approve.  
7 So, we're not going to answer questions  
8 about individual parties, we're not going to answer  
9 questions about the strategy of negotiating with those  
10 parties and we're not at liberty to give out the  
11 information with respect to the people who responded  
12 to the NDAs because they understandably don't want to  
13 be shopped, don't want to take up a lot of your time.  
14 We can fight this through a lot of objections and so  
15 forth, and if we want to fight about that at some  
16 later time, perfectly fine.  
17 You can ask about his general strategy on  
18 this, you can ask about the basis for his confidence  
19 or nonconfidence in it. You can go through those  
20 general items, but the actual strategy, the terms of  
21 arrangements with individual parties I'm not going to  
22 have him go into now. Hopefully by the time we get to  
23 the hearing, we'll have an agreement that you will be  
24 on a --  
25 MR. SUMMERS: Let's go -- I think let's

Page 73

1 go -- move through the questions and see how we do.  
 2 **MR. CULLEN:** Okay.  
 3 **MR. SUMMERS:** I understand the City's  
 4 position on it.  
 5 **MR. CULLEN:** Okay.  
 6 **BY MR. SUMMERS:**  
 7 Q. You said an RFP went out yesterday?  
 8 **A. Correct.**  
 9 Q. Approximately how many people was the RFP sent to  
 10 yesterday?  
 11 **A. The 30 plus people who signed the NDA.**  
 12 Q. How much debtor-in-possession financing does the City  
 13 hope to obtain?  
 14 **A. Three hundred fifty million dollars, up to three**  
 15 **hundred fifty million dollars.**  
 16 Q. And does the City have a goal on the interest rate?  
 17 **A. The lowest possible interest rate.**  
 18 Q. Does the RFP attempt to define what that lowest  
 19 possible interest rate is?  
 20 **A. No.**  
 21 Q. Does it define whether the interest rate needs to be  
 22 fixed or variable?  
 23 **A. No.**  
 24 Q. What covenants, if any, are included in the RFP as  
 25 being acceptable or not acceptable?

Page 74

1 **A. I'm not going to discuss that. It's commercially**  
 2 **sensitive.**  
 3 Q. How long of maturity on the DIP financing is the City  
 4 looking to obtain?  
 5 **A. Through the pendency of the end of the case.**  
 6 Q. And is the City offering a lien on casino revenues in  
 7 connection with the DIP financing?  
 8 **A. In part.**  
 9 Q. I assume the City does not expect to obtain unsecured  
 10 financing?  
 11 **A. I would take it if it was offered.**  
 12 Q. No doubt. What other collateral is the City offering  
 13 to secure the DIP financing loan?  
 14 **A. I'm not going to answer that question.**  
 15 Q. Does the RFP define what collateral would be  
 16 available?  
 17 **A. Yes, it does.**  
 18 Q. And that's been sent out to potential investors?  
 19 **A. Who have signed nondisclosure agreements.**  
 20 Q. If somebody new came and said I would be interested in  
 21 providing DIP financing, you would have them sign an  
 22 NDA and then provide them the RFP?  
 23 **A. If they wanted to make an unsolicited proposal without**  
 24 **the benefit of the RFP, we would be happy to accept**  
 25 **it. Are you suggesting your client is interested in**

Page 75

1 **is submitting a proposal?**  
 2 Q. Is the City offering art work as collateral?  
 3 **A. I'm not going to discuss the terms of the term sheet,**  
 4 **sorry.**  
 5 Q. Well, we kind of picked and choose what terms in the  
 6 RFP we are discussing and not discussing.  
 7 **MR. CULLEN:** We have in the attempt to  
 8 accommodate your desire for information and to  
 9 maintain control of the integrity of this process  
 10 which we believe is best negotiated as a negotiation  
 11 and not a litigation.  
 12 **MR. SUMMERS:** I guess I struggle with  
 13 understanding why the collateral that's offered in the  
 14 RFP that's been sent out when we know the interest  
 15 rate, the amount of the financing the debtor seeks,  
 16 why that puts the City at a competitive disadvantage.  
 17 **MR. CULLEN:** We didn't say the interest  
 18 rate.  
 19 **MR. SUMMERS:** The lowest possible.  
 20 **MR. CULLEN:** This is the beginning of a  
 21 negotiation. It's the beginning of a negotiation that  
 22 isn't at an end yet, that hasn't had any response to  
 23 the RFPs yet, it's an initial offer, and that's what  
 24 it is, and he's discussing it as such and willing to  
 25 testify about it as such, but I'm not going to read

Page 76

1 the terms of the RFP in the newspaper and our bidders  
 2 are not going to read the terms of the RFP in the  
 3 newspaper because that would hamper the process and  
 4 hamper our ability to get best value.  
 5 **MR. SUMMERS:** But we already have in the  
 6 record that the casino revenues are part of the  
 7 collateral that's being offered, so, what's wrong with  
 8 finding out what the rest of the collateral that's  
 9 being offered?  
 10 **MR. CULLEN:** Not going to argue with you,  
 11 Counsel. I'm telling you what the position is. I've  
 12 tried to be accommodating. It's as far as I am going  
 13 to go.  
 14 **BY MR. SUMMERS**  
 15 Q. Has the City had discussions with the State of  
 16 Michigan about providing financing?  
 17 **A. I'm not going to discuss that.**  
 18 Q. What is the City's view about what has to happen in  
 19 order to be able to obtain debtor-in-possession  
 20 financing -- let me put a finer point.  
 21 Are there certain events that the City  
 22 believes has to happen in the case for it to be able  
 23 to realistically obtain debtor-in-possession  
 24 financing?  
 25 **A. Yes, there are events in the case.**